

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

JOSEPH SOILEAU, JR., Individually
and on behalf of other employees
similarly situated,

Plaintiff,

V.

ARGOS USA, LLC d/b/a ARGOS
CEMENT, LLC,

Defendant.

§ § § § § § § § § § § § § § § §

Civil Action No. 4:18-cv-00848

JURY TRIAL DEMANDED

**JOINT MOTION TO APPROVE SETTLEMENT
AND DISMISS LAWSUIT WITH PREJUDICE**

The Parties jointly request that the Court approve their proposed settlement involving Fair Labor Standards Act (“FLSA”) claims and dismiss this lawsuit with prejudice. In support of this Motion, the Parties jointly state as follows:

1. On March 26, 2018, Plaintiff Joseph Soileau, Jr. (“Plaintiff” or “Soileau”) filed a putative collective action Complaint against Defendant Argos USA LLC (“Defendant” or “Argos”)¹ alleging violations of the Fair Labor Standards Act, 29 U.S.C. § 201, *et seq.* (“FLSA”) based on alleged misclassification of his position as exempt.

2. On May 11, 2018, in response to Defendant’s Motion to Dismiss, Plaintiff filed his First Amended Complaint asserting similar FLSA claims on behalf of himself and “[a]ll current and former employees employed by Argos US Corporation [*sic*] as a ‘Plant Supervisor

¹ Plaintiff's Complaint improperly identifies Defendant as "Argos USA, LLC d/b/a Argos Cement, LLC." The correct corporate entity is Argos USA LLC.

II’ at any location in the United States owned, operated, and/or acquired by Defendant from March 15, 2015 to present.” (Dkt. No. 22.)

3. Since the filing of this lawsuit, eight additional individuals have joined this lawsuit (collectively, “Plaintiffs”).²

4. To date, Plaintiff has not filed a motion for conditional certification on behalf of any putative class.³

5. To avoid further litigation costs and uncertainty, and without any admission of liability or fault on behalf of Defendant, the Parties have reached a fair and reasonable settlement of all Plaintiffs’ claims raised in this lawsuit.

6. Here, there is a bona fide dispute between the Parties; however, both Parties believe the settlement reached is a fair and reasonable resolution of the bona fide dispute.

7. Based on the Parties’ communications and discovery to date (which includes the production of payroll records and personnel files), the Parties acknowledge and agree that there are significant factual disputes regarding the merits of Plaintiffs’ claims and the appropriateness of collective treatment—including, but not limited to, whether Plaintiffs are properly classified as exempt employees and, therefore, are not entitled to any overtime pay.

8. Further, upon information and belief, the current Plaintiffs exclusively worked in various “plant supervisor” roles in the Houston, TX area and have no personal knowledge about the different operations, staffing, and/or employee classifications at any other locations. In

² The following individuals are parties to this lawsuit: (1) Joseph Roderick Soileau, Jr.; (2) Earnest S. White; (3) Jmer Taylor; (4) Sterling Davis; (5) Jonathan Lockings; (6) Salvador Camacho; (7) Richard Onwumere; (8) Elroy Tyler; and (9) Jonathan Luna. (*See* Dkt. Nos. 3, 7, 8, 26, 27, 35, 38).

³ In light of ongoing settlement discussions in August through October 2018, the Parties sought an extension of applicable deadlines. (*See, e.g.*, Dkt. No. 39.) On October 31, 2018, the Court set a class certification deadline of December 28, 2018. (Dkt. No. 40.) No class or conditional certification motion was filed by this deadline.

addition to potential differences in locations, the Parties acknowledge and agree that there are different “plant supervisor” titles at Argos and these different positions perform different job duties, are paid differently, and/or may be classified differently.

9. In order to resolve this matter, the Parties have engaged in arm’s-length negotiations through their experienced counsel and have reached settlement. A copy of the Parties’ proposed *Settlement Agreement and Release* (“Settlement Agreement”) is being filed under seal contemporaneous with this joint motion.

10. The Parties proposed settlement includes an agreed upon payment of back wages and other non-wage damages to the current Plaintiffs based on an agreed-upon formula, plus the payment of additional service awards (in exchange for a general release of liability). The Parties have also agreed to notify all other plant supervisors who worked for Defendant in the Houston area during an agreed-upon time frame. If these individuals indicate an interest in joining this lawsuit after receiving notice, they will be paid back wages and other non-wage damages based upon an agreed-upon formula in exchange for a release of wage-related claims.

11. WHEREFORE, the Parties jointly request that the Court approve the attached (sealed) Settlement Agreement and dismiss this lawsuit with prejudice. The Parties request that the Court retain jurisdiction to enforce the Settlement Agreement.

12. For the Court’s convenience, a proposed order is attached hereto as Exhibit 1.

Respectfully submitted this 1st day of April, 2019.

Respectfully submitted,

By: /s/Trang Q. Tran

Trang Q. Tran
Federal I.D: 20361
Texas Bar No. 00795787 2537
South Gessner, Suite 104
Houston, Texas 77063
Telephone (713) 223-8855
Facsimile (713) 623-6399
ttran@tranlawllp.com
service@tranlawllp.com

ATTORNEY FOR PLAINTIFF

and

By: /s/ Patricia G. Griffith

Patricia G. Griffith
Georgia Bar No. 311928
pgriffith@fordharrison.com
Attorney-in-Charge
Patrick Ryan
Georgia Bar No. 269833
pryan@fordharrison.com
FORDHARRISON LLP
271 17th Street, NW, Suite 1900
Atlanta, Georgia 30363
Telephone: (404) 888-3800
Facsimile: (404) 888-3863
(Attorneys Admitted Pro Hac Vice)

ATTORNEYS FOR ARGOS USA LLC

OF COUNSEL:

Angela Cummings
North Carolina Bar No. 26536
acummings@fordharrison.com
Julie K. Adams
North Carolina Bar No. 32773
jadams@fordharrison.com
FORDHARRISON LLP
6000 Fairview Rd., Suite 1200
Charlotte, NC 28210
Telephone: (980) 282-1900
Facsimile: (980) 282-1949
(Attorneys Admitted Pro Hac Vice)

Rachel Z. Ullrich
Texas Bar No. 24003234
S.D. ID No. 22347
rullrich@fordharrison.com
FORDHARRISON LLP
1601 Elm Street, Suite 4450
Dallas, Texas 75201
Telephone: (214) 256-4700
Facsimile: (214) 256-4701
WSACTIVE LLP:10398891.3